

CIVIL SERVICE COMMISSION MINUTES

July 26, 2002

A special meeting of the Civil Service Commission was held at 2:00 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gordon Austin
Barry I. Newman
Roy Dixon
Sigrid Pate
Mary Gwen Brummitt

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
July 26, 2002

1:00 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:00 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
<u>5 6 7</u>	<u>7</u>		<u>4</u>

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Dixon. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Update from Legal Counsel - Existing Litigation. Superior Court's Final Order re **Joseph Diaz v. Civil Service Commission of the County of San Diego and San Diego Health and Human Services Agency**; Case No. GIC 788100.

B. Commissioner Austin: **Tracy Lyn Moe**, former Deputy Sheriff-Courts, appealing an Order of Termination and Charges from the Sheriff's Department.

REGULAR AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the special meeting of July 17, 2002.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Newman: Wendell Prude, S.E.I.U. Local 2028, on behalf of **Donald Fox**, Correctional Deputy Probation Officer I, appealing an Order of Suspension and Charges from the Department of Probation.

Confirmed.

3. Commissioner Pate: Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Joseph Diaz**, former Protective Services Worker II, appealing an Order of Removal and Charges from the Health and Human Services Agency (HHSA).

Confirmed.

DISCIPLINES

Findings

4. Commissioner Austin: **Tracy Lyn Moe**, former Deputy Sheriff-Courts, appealing an Order of Termination and Charges from the Sheriff's Department.

Withdrawn.

SELECTION PROCESS

Findings

5. Commissioner Austin: William Conner, Employee Rights Center, on behalf of **Rodney Lee Johnson**, Applicant, appealing his removal from the employment list for the classification of Protective Services Worker II by the Department of Human Resources.

FINDINGS AND RECOMMENDATIONS:

A hearing was conducted on July 19, 2002 for the purpose of conducting an in camera review of Appellant's background investigation file. DHR originally determined that Appellant met the MQ's for the classification of Protective Services Worker II and placed him on an employment list for HHSA's consideration. Appellant failed the background investigation and was removed from the employment list by DHR at the request of the Agency.

At the hearing, Appellant introduced into evidence a resume of his employment dating back to 1993. The resume reflected employment that was important and meaningful. However, it also revealed employment that frequently changed. The in camera review of the background investigation confirmed and expanded upon HHSA's determination, and further concluded that the Agency conducted a thorough and fair background investigation regarding Appellant's application.

The hearing officer concluded that HHSA acted properly when it requested DHR to remove Appellant from the employment list for Protective Services Worker II due to his failure of the background investigation. It is therefore recommended that Appellant's appeal be denied; that the Commission read and file this report; and that this proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Austin to approve Findings and Recommendations; seconded by Brummitt. Carried.

INVESTIGATIONS

Findings

6. Commissioner Dixon: Investigation into HHSA's removal of **Vanessa Page** from the classification of Protective Services Worker I, and her subsequent request to seal a Performance Appraisal for the period March 9, 2001 to September 9, 2001.

FINDINGS AND RECOMMENDATIONS:

Appellant, a former Protective Services Worker I in HHSA filed a request for a sealing of a performance appraisal, which the Commission denied. However, since this matter appeared to be convoluted, the Commission directed staff to follow up with the Agency to determine if there was any more relevant information regarding this matter. The Commission appointed one of its members to conduct a Rule XI investigation and report back.

The investigating officer conducted an investigation on July 17, 2002 by reviewing documents and receiving a complete briefing from staff. Focus of the investigation was to consider Appellant's requested remedy and to determine if that remedy was fair to both parties and within the Commission's jurisdiction, which was for the Commission to direct that her performance appraisal be sealed. The Agency responded to the Commission via Memo that it recommended sealing of the performance appraisal, and that Appellant's termination status and date be corrected to reflect that she resigned from County service prior to the effective date of her separation during probation. The Agency's recommendation, in part, was due to the fact that Appellant had filed a letter of resignation prior to her final day of employment.

The investigation revealed that HHSA violated the provisions of Rule V by issuing the performance appraisal 8 days late, and by not granting Appellant's request for an appeal within the Agency. Also, it appears that HHSA received her resignation prior to the final date of employment, but failed to follow-up with her.

The investigating officer concluded that the most fair and practical way to resolve the issue was to grant Appellant's request to seal the performance appraisal, and to grant HHSA's recommendation to allow her to retroactively resign from County Service. It is therefore recommended that the Commission grant Appellant's request to seal the performance appraisal for March 9, 2001 to September 9, 2001, as supported by HHSA; that the Commission grant HHSA's recommendation to allow Appellant to retroactively resign from County service on March 13, 2002; that the Commission read and file this report; and that the proposed recommendation shall become effective upon the date of approval by the Civil Service Commission.

Motion by Dixon to approve Findings and Recommendations; seconded by Pate. Carried.

OTHER MATTERS

7. Everett Bobbitt, Esq., on behalf of the **Deputy Sheriffs' Association** (DSA), requesting time to address the Commission regarding: a) DSA allegations of untruthfulness by Sheriff's Department personnel and b) DSA request for a Civil Service Rule change allowing the Commission to hear appeals of reprimands.

RECOMMENDATION: Allow Mr. Bobbitt to address the Commission.

Mr. Bobbitt requested a continuance regarding item 7 (a) above.

Item 7(b) - DSA request for Civil Service Commission to be appellate authority of Public Safety Officers, or in the alternative, change the Civil Service Rules regarding grievance procedures to allow for evidentiary hearings on reprimands. Mr. Bobbitt informed the Commission that a ruling is due within the next couple of weeks from the Court of

Appeal formalizing procedures for evidentiary hearings.

The Commission queried Larry Cook, Executive Officer regarding the procedure the Commission would follow regarding any rule change. Mr. Cook explained that a rule change may be initiated by any person or body. It entails a meet and confer process and ultimately a public meeting for the Commission to receive input on any proposed changes. The Commission then forwards proposed changes to the Board of Supervisors for approval

Argument against changing Rule 7.3(c) was presented from the Sheriff's Department, County Counsel and Carol McGowan from the Labor Relations office of DHR. Emphasis was placed upon not having one set of rules for approximately 2000 employees, and another set for the other 17,000 classified employees. Also, should there be a change regarding Rule 7.3(c) for the public safety officers, Ms. McGowan explained that this would likely necessitate negotiations with the other County employee organizations.

The Commission, on recommendation from Ralph Shadwell, Sr. Deputy County Counsel, opted to place this matter on a future agenda, subsequent to the decision from the Court of Appeal being rendered.

**Motion by Pate to continue this matter; seconded by Dixon.
Carried.**

Extension of Temporary Appointments

8. Department of Animal Control

1 Supervising Animal Control Officer (Loren Bunnell)

9. Auditor and Controller

1 Mail Processing Technician (Ronald Tanciatco)

RECOMMENDATION: Ratify Item Nos. 8 & 9.

Item Nos. 8 & 9 ratified.

10. Public Input.

ADJOURNMENT: 2:45 p.m.

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE AUGUST 29, 2002.